

**§ 159I-15. Bonds and notes.**

(a) The Board may provide for the issuance at one time or from time to time of bonds and notes, including bond anticipation notes and renewal notes, of the Board to carry out and effectuate its corporate purposes. The principal of and interest on such bonds or notes shall be payable solely from funds provided under this Chapter for such payment. Any bond anticipation notes may be made payable from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, notes may be paid from any available Board revenues or other funds provided for this purpose. Bonds and notes may also be paid from the proceeds of any credit facility. The bonds and notes of each issue shall be dated and may be made redeemable prior to maturity at the option of the Board or otherwise, at such price or prices, on such date or dates, and upon such terms and conditions as may be determined by the Board. The bonds or notes may also be made payable from time to time on demand or tender for purchase by owner, all upon such terms and conditions as may be determined by the Board. Any such bonds or notes shall bear interest at such rate or rates, including variable rates, as may be determined by the Local Government Commission with the approval of the Board.

The Board may also issue one or more series of bonds and notes, including bond anticipation notes and renewal notes, from time to time, to make loans to an individual unit of local government upon a determination, by resolution, of the Board as follows:

- (1) The issuance of a series of bonds or notes by the Board in order to make a loan to an individual unit of local government, as distinct from the proceeds of such series of bonds or notes being used to provide a pool of money to make a number of such loans, does not materially adversely affect the ability of the Board to effect its general policy of making loans on a pooled basis.
- (2) The issuance of the series of bonds or notes will not economically disadvantage the Board and will provide an economic benefit to the individual unit of local government.
- (3) The use, if any, of any of the proceeds of the Solid Waste Management Loan Fund in connection with the Board financing for an individual unit of local government is consistent with the Board's use of any proceeds in connection with loans made on a pooled basis.

All of the provisions of this Chapter, including, without limitation, G.S. 159I-13 relating to the sources and security that may be used by units of local government in making loans, shall apply to any Board financing for an individual unit of local government.

(b) In fixing the details of bonds or notes, the Board may provide that any of the bonds or notes may:

- (1) Be made payable from time to time on demand or tender for purchase by the owner thereof provided a credit facility supports such bonds or notes, unless the Local Government Commission specifically determines that a credit facility is not required upon a finding and determination by the Local Government Commission that the absence of a credit facility will not materially and adversely affect the financial position of the Board and the marketing of the bonds or notes at a reasonable interest cost to the Board;
- (2) Be additionally supported by a credit facility;
- (3) Be made subject to redemption or a mandatory tender for purchase prior to maturity;
- (4) Bear interest at a rate or rates that may vary for such period or periods of time, all as may be provided in the proceedings providing for the issuance of such bonds or notes including, without limitation, such variations as may be permitted pursuant to a par formula; and

- (5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket the bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the Board.
- (c) As used in this section:
  - (1) "Credit facility" means an agreement entered into by the Board with a bank, savings and loan association or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution providing for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption or acceleration), redemption premium, if any, and interest on any bonds or notes payable on demand or tender by the owner, in consideration of the Board agreeing to repay the provider of such credit facility in accordance with the terms and provisions of such agreement; the provider of any credit facility may be located either within or without the United States of America.
  - (2) "Par formula" means any provision or formula adopted by the Board to provide for the adjustment, from time to time, of the interest rate or rates borne by any bonds or notes including:
    - a. A provision providing for the adjustment so that the purchase price of the bonds or notes in the open market would be as close to par as possible;
    - b. A provision providing for the adjustment based upon a percentage or percentages of a prime rate or base rate, which percentage or percentages may vary or be applied for different periods of time; or
    - c. Such other provisions as the Board may determine to be consistent with this Chapter and will not materially and adversely affect the financial position of the Board and the marketing of the bonds or notes at a reasonable interest cost to the Board.

(d) Notes shall mature at such time or times and bonds shall mature, not exceeding 40 years from their date or dates, as may be determined by the Board. The Board shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the United States. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or notes or coupons, if any, shall cease to be this officer before the delivery thereof, this signature or the facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until the delivery and any bond or note or coupon may bear the facsimile signatures of such persons who at the actual time of the execution thereof shall be the proper officers to sign although at the date of the bond or note or coupon the persons may not have been these officers. The Board may also provide for the authentication of the bonds or notes by a trustee or other authenticating agent. The bonds or notes may be issued as certificated or uncertificated obligations or both, and in coupon or in registered form, or both, as the Board may determine. Provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Any system for registration may be established as the Board may determine.

(e) No bonds or notes may be issued by the Board under this Chapter unless the issuance thereof is approved and the bonds or notes are sold by the Local Government Commission as provided in this Chapter. The Board shall file with the Secretary of the Local Government Commission an application requesting approval of the issuance of the bonds or notes which application shall contain any such information and shall have attached to it any such documents concerning the proposed financing as the Secretary of the Local Government Commission may require.

In determining whether a proposed bond or note issue should be approved, the Local Government Commission may consider, to the extent applicable as shall be determined by the Local Government Commission, the criteria set forth in G.S. 159-52 and G.S. 159-86, as well as the effect of the proposed financing upon any scheduled or proposed sale of obligations by the State, by any of its agencies or departments, or by any unit of local government in the State. The Local Government Commission shall approve the issuance of such bonds or notes if, upon the information and evidence it receives, it finds and determines that the proposed financing will satisfy such criteria and will effect the purposes of this Chapter.

Upon the filing with the Local Government Commission of a written request of the Board requesting that its bonds or notes be sold, the bonds or notes may be sold by the Local Government Commission in such manner, either at public or private sale, and for such price or prices as the Local Government Commission shall determine to be in the best interest of the Board and to effect the purposes of this Chapter, provided that the sale shall be approved by the Board.

(f) The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in such manner and under such restrictions, if any, as the Board may provide in the resolution authorizing the issuance of, or in any trust agreement securing, such bonds or notes.

(g) Prior to the preparation of definitive bonds, the Board may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The Board may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

(h) Bonds or notes may be issued under the provision of this Chapter without obtaining, except as otherwise expressly provided in this Chapter, the consent of any department, division, commission, board, body, bureau, or agency of the State and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions, or things that are specifically required by this Chapter and the provisions of the resolution authorizing the issuance of, or any trust agreement securing, such bonds or notes. (1989, c. 756, s. 1; 1989 (Reg. Sess., 1990), c. 1004, ss. 22, 23; c. 1024, s. 38(a), (b); 2011-266, s. 1.26(c).)